



## **CHIEF EXAMINER REPORT**

**JANUARY 2025**

**LEVEL 6 UNIT 3 – CRIMINAL LAW**

The purpose of the suggested points for responses is to provide candidates and Training Providers with guidance as to the key points candidates should have included in their answers to the January 2025 examinations.

The suggested points for responses sets out points that a good (merit/distinction) candidate would have made.

Candidates will have received credit, where applicable, for other points not addressed.

### **Section A**

As is the case in previous years, Section A questions are a less favourable choice for candidates and normally done to a lesser standard than Section B questions, gaining less marks. Question 1 was popular and done to a good standard, and for the candidates who chose question 3, this was also done well. Question 2 was unpopular but done well by the few who chose it.

### **Section B**

Section B scenarios are always more preferred than section A. Candidates seem to grasp the concept of answering scenario questions well and are good at breaking down the question, discussing all possibilities. Question 3 (a) and (b) was particularly popular, as most questions involving murder are, and was done to a very good standard.

## Candidate Performance and Suggested Points for Responses

It is noted that the low numbers of candidates taking the Level 6 exams limits the scope for constructive feedback to be given and for firm conclusions to be reached. Therefore, feedback on candidate performance may be limited.

### Section A

Question 1	25 marks
Most were able to describe and explain mens rea and discuss the main part of the question which required a focus on the three types of MR, including intention, recklessness and negligence. More focus could have been made on including a discussion of involuntary manslaughter and how MR relates to this offence. Overall, candidates did very well on this question.	
Suggested Points for Response:	
<ul style="list-style-type: none"><li>• explanation of the mens rea for murder and manslaughter</li><li>• discussion of the three different types of mens rea, including:<ul style="list-style-type: none"><li>• intention - explanation of direct and oblique - analysis of case law which could include Mohan (1976), Moloney (1985) Hancock and Shankland (1986), Nedrick (1986), Woollin (1998),</li><li>• Matthews and Alleyne (2003), Gnango (2011) and any other relevant case law.</li><li>• recklessness - explanation of objective and subjective - analysis of case law which could include Cunningham (1957), R v G and another (2003), AGs Ref (2004), Brady (2006) and any other relevant case law.</li><li>• negligence - explanation of negligence as the basis of criminal liability - analysis of case law which could include Adomako (1995), Wacker (2003), Evans (2009), Robinson (2018) and any other relevant case law.</li></ul></li><li>• Reasoned conclusion, including:<ul style="list-style-type: none"><li>• the purpose of establishing the mens rea of a homicide offence and how this links to the overall outcome of the case (malice aforethought = murder. MA + defence = voluntary manslaughter. MR of the base offence - UAM. No MR but gross criminal conduct = GNM)</li><li>• the importance of establishing the MR in criminal liability</li></ul></li></ul>	

Question 2	25 marks
Candidates who did pick this question showed sound understanding of necessity and duress as defences, however as in the past, they have struggled to evaluate the defences critically.	
Suggested Points for Response:	
<ul style="list-style-type: none"> <li>• Description and explanation of duress of circumstances and necessity with relevant case law that could include Shayler (2001), Re A (2001), Conway (1989) and any other relevant case law.</li> <li>• Discussion of the overlap/interchangeability between the two defences</li> <li>• The main differences between the defences</li> <li>• Support for the argument that they should remain as separate defences</li> <li>• Any proposals for reform</li> <li>• An informed evaluation of the statement</li> <li>• A detailed discussion of the proposals for reform</li> <li>• An in-depth exploration of both defences identifying the relevant arguments to support reasoning</li> </ul>	

Question 3a	13 marks
Candidates seem to like questions on defences, especially insanity and intoxication as there are many critical points to include in an essay answer. Out of the two questions, QA3(a) was done better than (b) due to the obvious issues with the defence of insanity. I still feel that some candidates are unaware of how much to write for a 10-15 mark question; the length and depth of answers varied.	
Candidates seemed to be able to recite basic knowledge in the area with applicable case law but stumbled on the critical assessment. Some responses provided advantages and disadvantages but at a low standard.	
Suggested Points for Response:	
<ul style="list-style-type: none"> <li>• Description and explanation of the current law on insanity including: <ul style="list-style-type: none"> <li>◦ the presumption of insanity and any relevant case law - Dickie (1984), Walton (1978)</li> <li>◦ M’Naghten Rules (1843)</li> <li>◦ Discussion of the test for insanity, including a description and explanation of: <ul style="list-style-type: none"> <li>• disease of the mind</li> <li>• not knowing the nature and quality of the act</li> <li>• not knowing that it is legally wrong</li> </ul> </li> </ul> </li> <li>• Discussion and evaluation of case law, which could include Clarke (1972), Kemp (1957), Sullivan (1984), Quick (1973), Hennessey (1989), Windle (1952), Johnson (2007) and any other relevant case law.</li> <li>• Support and criticism of the statement that the law is outdated and in need of reform.</li> <li>• Any proposals for reform</li> <li>• An informed evaluation of the statement</li> </ul>	

Question 3b	12 marks
Suggested Points for Response:	
<ul style="list-style-type: none"> <li>• Description and explanation of the current law on voluntary intoxication including: <ul style="list-style-type: none"> <li>• the definition of intoxication</li> <li>• the difference between voluntary and involuntary intoxication</li> <li>• comment on dangerous and non-dangerous drugs</li> <li>• the difference between specific and basic intent crimes</li> <li>• Discussion and evaluation of case law, which could include Majewski (1977), Heard(2007), Lipman (1970), Hardie, AG for NI v Gallagher (1963), Kingston (1995), O’Grady (1987) and any other relevant case law.</li> </ul> </li> <li>• Support and criticism of the statement that the law is not fit for purpose and in need of reform.</li> <li>• Any proposals for reform</li> <li>• An informed evaluation of the statement</li> </ul>	

Question 4	25 marks
QA4 was generally done well. Candidates seemed to be able to recite basic knowledge in the area of burglary and the difference between the sections, with applicable case law, but stumbled on the critical assessment. Some candidates provided advantages and disadvantages but at a low standard.	
Suggested Points for Response:	
<ul style="list-style-type: none"> <li>• Description and explanation of the current law on burglary including: <ul style="list-style-type: none"> <li>• the difference between s9(1)(a) and (b) Theft Act 1968</li> <li>• Discussion of the elements of the offence of burglary, including a description and explanation of: <ul style="list-style-type: none"> <li>• entry</li> <li>• of a building or part of a building</li> <li>• as a trespasser</li> <li>• with intent to commit theft, GBH or criminal damage</li> </ul> </li> </ul> </li> <li>• Discussion and evaluation of case law, which could include Courtie (1984), Brown (Vincent) (1984), Gould (1986), Leathley (1979), Rodmell (1994), Massey (2001), Chipunza (2021) and any other relevant case law.</li> <li>• Support and criticism of the analysis stated.</li> <li>• Any proposals for reform</li> <li>• An informed evaluation of the statement</li> </ul>	

## Section B

Question 1	25 marks
<p>QB1 was popular with candidates as theft questions normally are. Candidates were able to describe and explain the law on theft with applicable case law, along with the offence of section 47 ABH. Some discussed GBH but with weak reasoning. The defence of duress was done well and highlighted by most. Overall, a well-done question.</p>	
<p>Suggested Points for Response:</p>	
<ol style="list-style-type: none"><li>1. <u>Theft</u><ul style="list-style-type: none"><li>• Identification and discussion of theft under s1 of the Theft Act 1968</li><li>• Explanation of the actus reus of theft - appropriation of property belonging to another</li><li>• Explanation of the mens rea of theft - dishonesty and intention to permanently deprive</li><li>• Identification of any applicable case law</li><li>• Application to the scenario - Paula has appropriated property (taken the £1000 cash and jewellery box) belonging to another (Harry) with the intention to permanently deprive (Paula has put the property in her car showing intention to keep the property) dishonestly (see above)</li><li>• Likely to be found guilty of theft</li></ul></li><li>2. <u>S47 ABH</u><ul style="list-style-type: none"><li>• Identification and discussion of ABH under s47 of the OAPA 1861</li><li>• Explanation of the actus reus of ABH - assault or battery</li><li>• Explanation of the mens rea of ABH - intentionally or recklessly commits assault or battery</li><li>• Identification of any applicable case law including Hasan</li><li>• Application to the scenario - Paula satisfies a battery due to the push and the severe bruise would be classed as an ABH injury.</li></ul></li><li>3. <u>Duress by threats</u><ul style="list-style-type: none"><li>• Identification and discussion of the defence of duress by threats</li><li>• Explanation of the defence – two-part test in R v Graham (1982) - both objective and subjective elements to be discussed. Discussion of the nature of the threat needed.</li><li>• Identification of any applicable case law.</li><li>• Application to the scenario - it is unlikely Paula could use the defence due to the voluntary exposure to the risk of duress by borrowing money from a 'known violent man'. Also, Paula is not told to commit a specific offence (Cole) and she had the opportunity to take evasive action due to the time of the threat and the offence committed.</li></ul></li></ol>	

Question 2	25 marks
<p>Non-fatal offences were done to a very good standard by most, however a number missed out the discussion of other possible outcomes (s20/s18/s47 would have all been credited) which limited their grade. The defence of intoxication was done very well.</p>	
Suggested Points for Response:	
<p><u>GBH/ABH</u></p> <ul style="list-style-type: none"> <li>• Identification and discussion of s20 GBH/s47 ABH under OAPA 1861.</li> <li>• Explanation of the actus reus of s20 GBH - wound, infliction of GBH, with or without any weapon or instrument and s47 ABH – assault or battery that leads to ABH</li> <li>• Explanation of the mens rea of s20 GBH - unlawfully and maliciously and s47 ABH – intentionally or recklessly</li> <li>• Identification of any applicable case law</li> <li>• Application to the scenario - Aaron has fulfilled the actus reus of s20 GBH by kicking Juan three times that left numerous injuries that required medical attention - candidates should discuss whether or not this would be ABH injuries or GBH injuries and come to the conclusion that due to the severity of the injuries, Aaron would be charged with GBH. Possible discussion of s47.</li> <li>• Further application to the scenario and a discussion of s47, s20 GBH and s18 GBH should be credited.</li> </ul> <p><u>Intoxication</u></p> <ul style="list-style-type: none"> <li>• Identification and discussion of the defence of intoxication</li> <li>• Explanation of the defence - difference between voluntary and involuntary intoxication - difference between specific and basic intent</li> <li>• Identification of any applicable case law</li> <li>• Application to the scenario – Unlikely to be an available defence to Aaron. Aaron may have had the necessary mens rea for GBH regardless whether he was spiked, however it can also be argued that if it wasn't for the spiking, Aaron would not have mistaken Kira for Katarina. Discussion of Kingston and drunken intent necessary.</li> <li>• Candidates who discuss the difference in the availability of the defence for s20 and s18 GBH and its relevance to Aaron should be credited.</li> </ul>	

Question 3a	14 marks
<p>Murder and the defence of loss of control was done well by most, with the discussion of sexual infidelity and the reasonable person test being the focus. However, a number of candidates missed out Unlawful Act Manslaughter which limited their grade.</p>	
Suggested Points for Response:	
<p><u>Murder</u></p> <ul style="list-style-type: none"> <li>• Identification and description of the offence of murder</li> <li>• Explanation of the actus reus of murder</li> <li>• Explanation of the mens rea of murder</li> <li>• Identification of any applicable case law</li> <li>• Application of scenario - actus reus is satisfied - unlawful killing of a human being under the Kings Peace - mens rea is satisfied - punching someone hard three times shows intention to cause really serious harm/GBH, and possibly intention to kill depending on the scenario.</li> </ul> <p><u>Partial Defence - Loss of Control</u></p> <ul style="list-style-type: none"> <li>• Identification and description of the partial defence of loss of control</li> <li>• Explanation of the three part test for LOC - is there a LOC, is there a qualifying trigger and the objective test (age and sex)</li> <li>• Identification of any applicable case law</li> <li>• Application to scenario - Bashma has lost her control ('crying', 'angered'), qualifying trigger ('laughed at her' - things said or done - discussion of sexual infidelity being excluded from the qualifying trigger) and objective test (likely to be argued both ways by candidates - three punches is a lot and might be more than the average person would do, but also if someone is angered it might be reasonable)</li> </ul> <p><u>Unlawful Act Manslaughter</u></p> <ul style="list-style-type: none"> <li>• Identification and description of UAM</li> <li>• Explanation of the legal test of unlawful act, dangerousness, causation, and the MR of the base act.</li> <li>• Identification of any applicable case law</li> <li>• Application to scenario – there has been an unlawful act (punches), it is dangerous on an objective test (Church), the act has caused the death of V and there is sufficient mens rea for the base offence, GBH.</li> </ul>	



Question 3b	11 marks
This question was again done well. Attempts were able to identify criminal damage and aggravated criminal damage, with applicable case law, and good applications by most.	
Suggested Points for Response:	
<ul style="list-style-type: none"> <li>• Identification and discussion of the offence of criminal damage under s1 Criminal Damage Act 1974</li> <li>• Explanation of the actus reus of criminal damage - destroy or damage property belonging to another without lawful excuse</li> <li>• Explanation of the mens rea of criminal damage - intention or recklessness to commit the actus reus</li> <li>• Identification of any applicable case law</li> <li>• Application to the scenario - no lawful excuse present, the property is the window of the office and the computer keyboard that belongs to another (Walt), window has been destroyed and keyboard is damaged. Mens rea is satisfied due to Yara's intention</li> <li>• Conclusion that Yara would be guilty of s1 Criminal Damage</li> </ul>	

Question 4	25 marks
<p>QB4 was probably the least popular question, as questions involving fraud or other similar crimes such as conspiracy often are. Those who did choose this question did well when discussing theft and fraud but struggled with conspiracy. More focus on fraud/conspiracy etc might be required for future candidates.</p>	
Suggested Points for Response:	
<p><u>Fraud</u></p> <ul style="list-style-type: none"> <li>• Identification and discussion of the offence of s2 fraud by false representation under section 2 of the Fraud Act 2006</li> <li>• Explanation of the actus reus of fraud by false representation - making a false representation, knowing that the representation was or might be untrue or misleading</li> <li>• Explanation of the mens rea of fraud - dishonestly and with intent to make a gain for himself or another, to cause loss to another or to expose another to risk of loss.</li> <li>• Identification of any applicable case law</li> <li>• Application to scenario - both Carrie and Hamdeep made a false representation (boxes and handouts for a 'good cause'), and both knew that the representation was or might be untrue or misleading to the public. Both Carrie and Hamdeep were dishonest in their actions and had intention to make a monetary gain for themselves, cause loss to the public who 'donated' money and exposed the public to the risk of loss.</li> </ul> <p><u>Theft</u></p> <ul style="list-style-type: none"> <li>• Identification and discussion of the offence of theft under s1 Theft Act 1968</li> <li>• Explanation of the actus reus and mens rea of theft – dishonest appropriation of property belonging to another with the intention to permanently deprive.</li> <li>• Identification of applicable case law</li> <li>• Application to scenario – focus on appropriation and consent of the public but clear dishonesty from the defendants.</li> </ul> <p><u>Conspiracy</u></p> <ul style="list-style-type: none"> <li>• Identification and discussion of the offence of conspiracy under s1 of the Criminal Law Act 1977</li> <li>• Explanation of the actus reus of conspiracy - an agreement with any other person that a course of conduct will be pursued and will amount to the commission of an offence by one or more parties.</li> <li>• Explanation of the mens rea of conspiracy - intention to play a part in a plan that involves the commission of an offence, intention to play no part in a plan that involves the commission of an offence but did intend that that plan be carried out.</li> <li>• Identification of any applicable case law</li> <li>• Application to scenario - both Carrie and Hamdeep had an agreement with each other that they would take part in conduct that would lead to the commission of an offence (taking money off the public for a 'good cause'). Both Carrie and Hamdeep had intention to play a part in a plan that involves the commission of an offence (both went to town to raise money for their 'good cause' in order to make a financial gain for themselves)</li> </ul>	